



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 3, 1996

Ms. Amy L. Whitt  
Assistant City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR96-2282

Dear Ms. Whitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102402.

The City of Lubbock (the "city") received a request for a complete copy of the police report concerning a traffic accident that occurred on August 7, 1996. You contend that some of the requested information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. You have submitted the information at issue to this office for review.

Among the documents submitted to this office for review is an accident report. Access to accident reports is governed by law other than the Open Records Act. The Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports.<sup>1</sup> Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) places certain restrictions on the general public's access to "all accident reports made as

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<sup>1</sup>Effective September 1, 1995, articles 6701d and 6701h were repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71; see Trans. Code § 550.065 (release of accident reports). The legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., ch. 165, § 25, 1995 Tex. Sess. Law Serv. 1025, 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S., in House Bill 391 remains in effect as current law and may be found following section 550.065 of the Transportation Code. See also Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414.

required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h].” Specifically, section 47(b)(1) provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. Section 47(a) states that, except as provided by section 47(b), these accident reports are privileged and for the confidential use of the Department of Public Safety and agencies who use the reports for accident prevention purposes. The requestor has provided you with the name of a person involved in the accident and the date of the accident about which he is inquiring. Thus, section 47(b) entitles him to a copy of the accident report.

The remainder of the information submitted to this office consists of a case report and supporting information compiled by the Lubbock Police Department. You state that these documents relate to an ongoing criminal investigation and are, therefore, excepted from disclosure under section 552.108 of the Government Code. Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov’t Code § 552.007.

Finally, you cite to Open Records Decision No. 628 (1994) and claim that the identities of victims, witnesses, and informants should be protected because releasing their identities may subject them to “retaliation, harassment or harm from criminal actors.” Because the identities, descriptions, and statements of witnesses and informants do not constitute front page offense report information, this information is excepted from disclosure under section 552.108 as discussed above. If, however, the victim is identified as the complainant, the victim’s identity is included in the information found on the first page of an offense report. Open Records Decision No. 127 (1976) at 4. As noted above, such information is generally public. Nevertheless, if releasing the identity of a victim complainant would jeopardize that individual’s safety, the individual’s identity is protected from disclosure. *See* Open Records Decision Nos. 628 (1994), 169 (1977). You have not established that releasing the victim complainant’s name would endanger him or subject him to harassment. Thus, the victim complainant’s name must be released to the requestor along with the accident report and all of the other front page offense report information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is fluid and cursive, with the first name "Karen" and last name "Hattaway" clearly distinguishable.

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 102402

Enclosures: Submitted documents

cc: Mr. Joseph W. Kline  
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(w/o enclosures)